

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 40711 of 2017

Order:

The petitioner states that she was appointed as Typist in the year 1990 and subsequently promoted as Junior Assistant, Senior Assistant and lastly as Superintendent on 23.01.2012. She has been working in the third respondent temple since then, but she was deputed to work in the office of the Commissioner, Endowments Department, Hyderabad in the year 2013 and after completion of deputation she was repatriated to her parent temple in February 2015. She filed the present Writ Petition when an order of transfer terming it as deputation on administrative grounds was passed on 28.11.2017 for a period of one year including the petitioner and two others.

A counter affidavit is filed admitting the averments relating to her appointment and working in the office of the Commissioner, Endowments Department, Hyderabad. However, it is stated that the deputation to the office of the Commissioner was done without her consent. It is further stated that it was brought to the notice of the Trust Board that the petitioner was assigned the duties of PRO and that she expressed her inability to perform the duties of PRO and hence she was entrusted with the duties of establishment and auction wing, but she was not attending the said duties properly. She was not attending the duties on time and signing attendance register on the next day without taking any permission and she was not implementing Bio-metric - attendance Machine and that she was ruining the "severe atmosphere of the temple". It is also stated that the Trust Board of the temple in its meeting held on 20.11.2017

unanimously resolved to request the Commissioner, Endowments Department, Hyderabad, the second respondent to transfer the petitioner to any other institution and authorised the Chairman of the Trust Board to appraise the Commissioner, Endowments Department, Hyderabad, in that regard. In those circumstances only the orders of deputation was issued on 28.11.2017. It is also stated that she is no way concerned with the cadre strength of establishment of Ujjaini Mahankali Ammavari Devasthanam, Secunderabad or Sri Ramalingeshwara Swamy Temple, Kesaragutta. The deputation that was effected does not carry any stigma and it is not a punishment.

Learned Senior Counsel appearing for the petitioner brought to the notice of this Court that there is only one sanctioned post of Superintendent in the fifth respondent temple and two persons, K. Ravi Kumar and G. Sai Ram are already working in the said temple. Now, under the impugned order, the said Sai Ram is transferred to Kesaragutta temple and Superintendent of Kesaragutta temple is now transferred to fifth respondent temple, apart from the petitioner, as a result of which, two persons are posted without availability of any sanctioned post.

At this stage, learned Government Pleader produced before this Court a modified order dated 07.12.2017, modifying the order dated 28.11.2017, by posting the Superintendent of Kesaragutta temple to Ganesh temple, where the petitioner has been working. This modified order also does not improve the situation and by virtue of those orders two Superintendents are now posted to work in the fifth respondent temple against one sanctioned post.

Learned Senior Counsel appearing for the petitioner further brought to the notice of this Court a resolution passed by the Board of Trustees of the fifth respondent temple for retention of said G. Sai Ram who was posted in that place only one month back. He also pointed out that the deputation cannot be effected without the consent of the employee and the earlier deputation cannot be taken as an aid in the instant case. He also submitted that each temple is a unit and no transfer can be affected from one temple to another temple. Learned Government Pleader produced before this Court a copy of the relieving order dated 07.12.2017 relieving the Superintendent of Keesaragutta temple and joining by the said Superintendent in the post of Superintendent at Ganesh temple.

Be that as it may, as per the above orders, now two Superintendents are posted in the fifth respondent temple. Though the learned Government Pleader tried to defend the action by stating that one Superintendent is working in a supernumerary post, there is no explanation from the Government Pleader for posting a third person. This Court is *prima facie* not happy with the turn of events and noticed that the impugned order dated 28.11.2017 was passed at the behest of the two Chairmen of Ganesh temple and Keesaragutta temple respectively. Though the impugned order states that the order was passed by order of the Commissioner, this Court hopes that the Commissioner would take the over all situation into consideration and pass orders according to law keeping in view the sanctioned post and the need of the employees, by reviewing his earlier decision. The other issues raised by the petitioner are not decided in view of the nature of disposal of Writ Petition in the manner indicated below.

In the circumstances, the impugned order dated 28.11.2017 is set aside to the extent of the petitioner and the matter is remanded to the second respondent for passing appropriate orders in accordance with law within a period of one week from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed to the extent indicated above. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 11.12.2017
Nsr

A. RAMALINGESWARA RAO, J

